WILLS—BEQUEST "IN TRUST" CREATES ABSOLUTE GIFT.—Testator left the residue of his estate "in trust" to his three executors, directing that they should use their best judgment and that they should not be required to give bond. A separate bequest had been made to one of the executors. In a bill for the construction of the residuary clause, *held,* not to create a trust, but an absolute gift. *In re Dever's Will. Orr* v. *Thompson, et al* (Wis., 1921), 180 N. W. 839.

The language of the will in the instant case more clearly indicates an ineffective attempt to create a trust than that of *Harvey* v. *Griggs,* 111 Atl. 437, where a direction to dispose of property "according to best judgment" was held to create an absolute gift. See note to that case, 19 MICH. L. REV. 455. The view that the words "in trust" are not conclusive as to the intention of the testator is in accord with *Norman* v. *Prince,* 40 R. I. 402. But see *contra, Haskell* v. *Staples,* 116 Me. 103, where the same language, following a separate bequest to the executor, as in the instant case, was held to create a trust void for uncertainty.

WILLS—DECEPTION REGARDING MARRIAGE IS FRAUD WHICH AVOIDS LEGACIES THEREBY PROCURED.—A wife made a residuary bequest to a man whom she described as, and whom she believed to be, her lawful husband. He had induced her to enter into the marriage by false representations that he was free to marry, whereas in fact he had a wife living from whom he was not divorced. In proceedings to contest the will, *held,* that the deception warranted the inference that the will was the result of the fraud, and that the case should not have been taken from the jury. *In re Carson's Estate* (Cal., 1920), 194 Pac. 5.

The earliest reported case dealing with the question seems to be *Kennell* v. *Abbott* (1799), 4 Ves. 807, in which a legacy to the "husband" of the testatrix was held to be avoided by the former's false assumption of that character, the existence of which alone in the court's opinion, could be supposed to be the motive of the gift. In *Wilkinson* v. *Joughin,* L. R. 2 Eq. 319, a bequest to the testator's supposed wife was declared void for a similar fraud. In *Rishton* v. *Cobb,* 5 Myl. & Cr. 145. a bequest to a woman "so long as she shall continue single and unmarried" was held to be valid, even though unknown to the testator, she was married at the date of the will, on the ground that there was a mere inaccuracy in the description of the legatee. But this decision was questioned in *In re Boddington,* 50 L. T. R. 701. As pointed out in this case, two things must appear: first, a false assumption of the character of the legatee; second, evidence, or a presumption, that the false character was the motive for the gift. Thus, if there is no intentional deception, the gift is valid even though there may be a misdescription. *In re Boddington, supra* (where a legacy was given to the wife and later the marriage was annulled and declared void *ab initio* due to the impotency of the testator); *Philip Dries Case,* 69 N. J. Eq. 475 (where the wife did not know that she was not free to re-marry). See also, *Weening* v. *Temple,* 144 Ind. 189. If it appears that the testator knows of the deception, the bequest of the legacy is valid. *In re Will of Donnely,* 68 Iowa 126; *Moore* v. *Heineke,* 119